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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,981	06/12/2000	Bruce McKendry	0414.63308	3537

24978 7590 04/24/2002

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CHICAGO, IL 60606

EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/591,981

Applicant(s)

MCKENDRY, BRUCE

Examiner

Roz Ghafoorian

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-8, 10-13, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 9 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-8, 10-13 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Oath/Declaration***

2. A new oath or declaration is required because none of the inventors have signed or dated the document. The wording of an oath or declaration cannot be amended. If the wording is not correct or if all of the required affirmations have not been made or if it has not been properly subscribed to, a new oath or declaration is required. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration.

See MPEP §§ 602.01 and 602.02.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 11 recites the limitation "a manifold" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6-7, 21-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S Patent No. 5358476 to Wilson.

Wilson discloses a breast pump adapter for filling infant nursers having disposable liners and method or operation. Wilson's apparatus contains a movable diaphragm in a chamber, an output port, a shaft, and a motor.

5. Claim 8 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S Patent No. 5542921 to Meyers et al.

Meyer discloses an electric breast pump; it contains a movable diaphragm, a chamber, with one output port, and a motor with a rotating shaft.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No 5358476 to Wilson, and further in view of U.S Patent No. 5749850 to Williams et al.

As motioned above Wilson discloses a breast pump adapter for filling infant nursers having disposable liners and method or operation. Wilson, however, does not teach a pad in the cup or funnel of the breast pump. Williams discloses a breast pump with a pad.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the two studies. Because according to Williams a soft resilient breast cushion will increase comfort. (Col.7, lines 15-20)

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S Patent No. 5542921 to Meyers et al in view of U.S Patent No. 5358476 to Wilson and further in view of U.S Patent No. 5749850 to Williams et al.

As mentioned above Meyer discloses an electric breast pump; it contains a movable diaphragm, a chamber, with one output port, and a motor with a rotating shaft. Mayer, however, does not contain a liner or a pad. Wilson discloses a breast pump adapter for filling infant nursers having disposable liners and method or operation. Wilson teaches a liner in the chamber and teaches that liners add convenience and cleanliness to the breast extraction process. And liners also are safer to use because one does not have to wash and reuse the baby's bottle. Disposable bags also been developed to reduce the loss of nutrient when the milk is stored over a long period of time.

Williams discloses a breast pump with a pad.

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Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the these studies. Because according to Williams a soft resilient breast cushion will increase comfort. (Col.7, lines 15-20) and according to Wilson a liners add convenience and cleanliness to the breast extraction process. And liners also are safer to use because one does not have to wash and reuse the baby's bottle. Disposable bags also been developed to reduce the loss of nutrient when the milk is stored over a long period of time.(Col.1, lines 35-42)

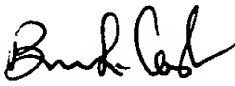
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
April 18, 2002

  
**BRIAN L. CASLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**